
**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JOHN TERRY DRURY,)
Plaintiff,) CIVIL ACTION
v.) FILE NO. _____
THE KROGER CO. and JOHN DOES) Removed from State Court of Cobb
1-3,) County, Civil Action File No. 23-
Defendants.) A-1728
) JURY TRIAL DEMANDED
)
)

DEFENDANT THE KROGER CO.'S NOTICE OF REMOVAL

COMES NOW, The Kroger Co., (“Defendant”), by and through undersigned counsel, and hereby files this Notice of Removal, showing the Court as follows:

1.

On April 26, 2023, this action was filed in the State Court of Cobb County, Georgia, said county being part of the Northern District of Georgia. See N.D.G.A. Local Rule 3.1(A), LR App. A, I. As such, the Atlanta Division of the United States District Court for the Northern District of Georgia is the proper venue for removal in this instance, as set forth further below.

2.

The action is a civil action for personal bodily injuries and medical expenses, and the United States District Court for the Northern District of Georgia has jurisdiction by reason of the diversity of citizenship of the parties, and the amount in controversy.

3.

The matter in dispute exceeds the statutory amount in controversy of \$75,000.00, exclusive of interest and costs, as Plaintiff demanded, in writing, a sum of two hundred and fifty thousand dollars (\$250,000.00) to resolve Plaintiff's claims against The Kroger Co. (See Exhibit A, Plaintiff's Demand.)

4.

(a) At the time of the commencement of this action in the State Court of Cobb County, upon information and belief, Plaintiff John Terry Drury was and is now a citizen of Georgia.

(b) At the time of the commencement of this action, Defendant Kroger was and is still now a foreign corporation, organized and existing under the laws of the State of Ohio with its principal place of business in Ohio, and is thus a citizen of Ohio.

5.

A true and correct copy of all process, pleadings, and orders served upon Defendant in this action are attached hereto as Exhibit B.

6.

The instant Notice of Removal is timely filed pursuant to and in accordance with 28 U.S.C. § 1446(c)(1) within thirty (30) days after the receipt by Defendant's counsel of Plaintiff's Summons and Complaint, attached as part of Exhibit B.

7.

Furthermore, the instant Notice of Removal is timely filed pursuant to and in accordance with 28 U.S.C. § 1446(c)(1) within one (1) year of the commencement of the action.

8.

Accordingly, this action, over which the United States District Court for the Northern District of Georgia has original jurisdiction under 28 U.S.C. § 1332, is removable to the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. § 1441.

9.

Venue is proper in the Atlanta Division of the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. §§ 1391 and 1441, and

N.D.G.A. Local Rule 3.1(B)(1)(a). Specifically, Plaintiff's Complaint was filed in the Superior Court of Cobb County, which is part of the Atlanta Division. See N.D.G.A. Local Rule 3.1(A), LR App. A, I.

10.

As required by 28 U.S.C. § 1446(d), Defendant shall give written notice hereof to all adverse parties and shall file a copy of this Notice of Removal with the Clerk of the State Court of Cobb County.

WHEREFORE, Defendant The Kroger Co. requests that this action proceed in this Court as an action properly removed thereto.

Respectfully submitted this 2nd day of June, 2023.

**GRAY, RUST, ST. AMAND,
MOFFETT & BRIESKE, L.L.P.**
950 East Paces Ferry Road, N.E.
Suite 1700 – Salesforce Tower Atlanta
Atlanta, Georgia 30326
Telephone: (404) 870-1067
Facsimile: (404) 870-1030
Email: aperwich@grsmb.com
ykintner@grsmb.com

/s/ Alexander D. Perwich III
Matthew G. Moffett
Georgia State Bar No.: 515323
Sarah Raquel L. Lisle
Georgia State Bar No.: 412593
Alexander D. Perwich III
Georgia State Bar No.: 622240
Counsel for Defendant The Kroger Co.

CERTIFICATE OF SERVICE AND OF COMPLIANCE WITH L.R. 5.1

This is to certify that on this date, the undersigned filed a true and correct copy of the foregoing pleading with the Clerk of Court using the CM/ECF system and served all parties of record via electronic service through the CM/ECF system to:

Jeffrey James, Esq.
Massey Law Group
1374 S. Milledge Avenue
Athens, GA 30605
Counsel for Plaintiff

Further, this is to certify that the foregoing pleading complies with the font and point selections approved by the Court in Local Rule 5.1. It is prepared in Times New Roman 14-point font.

Dated this 2nd day of June, 2023.

**GRAY, RUST, ST. AMAND,
MOFFETT & BRIESKE, L.L.P.**
950 East Paces Ferry Road, N.E.
Suite 1700 – Salesforce Tower Atlanta
Atlanta, Georgia 30326
Telephone: (404) 870-1067
Facsimile: (404) 870-1030
Email: aperwich@grsmb.com
ykintner@grsmb.com

/s/ Alexander D. Perwich III
Matthew G. Moffett
Georgia State Bar No.: 515323
Sarah Raquel L. Lisle
Georgia State Bar No.: 412593
Alexander D. Perwich III
Georgia State Bar No.: 622240
Counsel for Defendant The Kroger Co.